



Staff Report BZA16-008-VA

Heartland Dental- Setback Variance

Docket BZA16-008-VA Heartland Dental Setback Variance. The petitioner is requesting approval of a Variance of development standards for the purpose of allowing a commercial structure on a lot that encroaches on the side yard setback. The subject property is located on lot 5 of the Maple Grove Commercial Subdivision along Whitestown Parkway and Grove Pass. The petitioner is Innovative Engineering and the property owner is Diversified Property Group, LLC.



History

The proposed site is platted as part of a block of lots known as Maple Grove Commercial Subdivision. The entire subdivision is to serve up to four buildings with a potential of multiple tenants. Lot 5 is the lot requesting approval for a zero-foot lot line side yard setback.

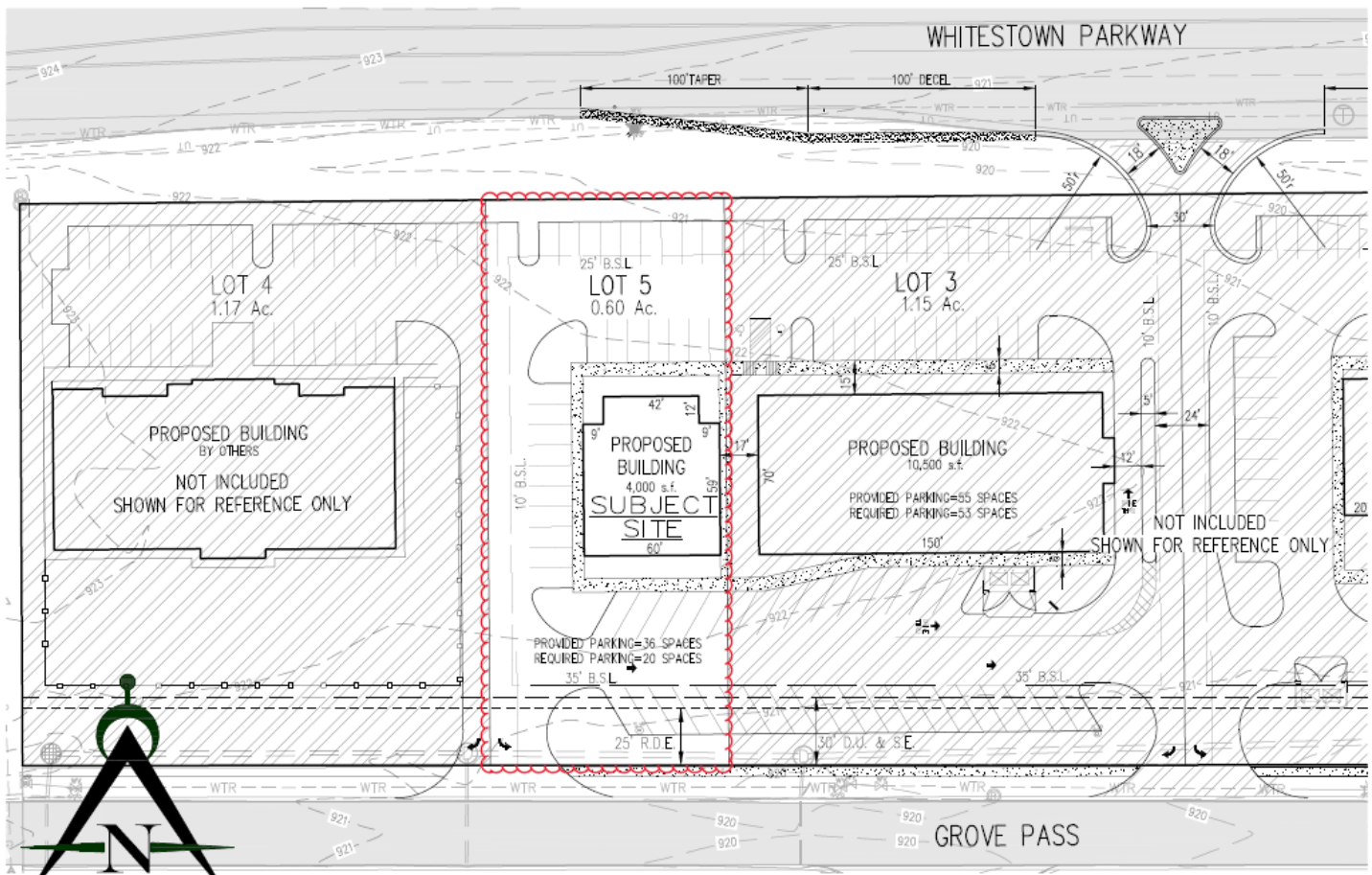
Lot 5 is currently seeking Concept Plan Approval through the Whitestown Plan Commission. This hearing is scheduled for Monday, October 17th. The concept plan includes approval for a 4,000 square foot dental office.

Site Location and Proposed Development

Lot 5 of the Maple Grove Commercial Subdivision is requesting approval for a variance from the design standards of a ten foot side yard setback to a zero lot line. The petitioner is planning to build a 4,000 square foot dental office with normal hours 8am to 5pm and no significant traffic impacts.

In order to provide adequate number of parking spots and accessible access drives, the building is set to be on a zero lot line. Lot 3 to the west of this property is also requesting a variance to obtain a reduction of side yard setback to offer an outside patio area for a potential restaurant.

See the proposed lot in relation to the proposed Lot 3 building in the drawing below:



Requested Variance

Reduce the side yard setback from 10 feet to 0 feet.

UDO, Chapter 2.9. General Business

LOT STANDARD	NON-RESIDENTIAL
MIN. FRONT YARD SETBACK	20
MIN. SIDE YARD SETBACK	10
MIN. REAR YARD SETBACK	10
MIN. OPEN SPACE	15%

Decision Criteria

Per the Zoning Ordinance, *Section X.C.5.a(3)* the Board of Zoning Appeals shall use the following three decision criteria, consistent with the requirements of the Indiana Code IC 36-7-4-918.5, when taking action on all variance requests:

1. The variances will not be injurious to the public health, safety, morals, and general welfare of the community.

The same architect is coincidentally designing both buildings. All building designs will require approval of the Indiana Department of Homeland Security Division of Fire and Building Safety Plan Review Branch.

The Lot 3 and Lot 5 buildings will be similar in character, design and appearance. Separation of the site in two lots necessitates a side yard setback reduction, but that reduction will have no adverse impact on the community in general.

2. The use or value of the area adjacent to the property included in the variances will not be affected in a substantially adverse manner.

The adjacent property is being designed coincidentally by the same architect. The Applicant has invested large sums of money and completed many projects in the Town. The Applicant has worked to establish level of professionalism and quality and believes that past work has proven long term commitment to the Town. The Applicant plans to continue in the future to invest heavily in the Town.

Opportunities for successful future endeavors will depend on the Applicant continuing to provide that level of quality and commitment to the Town. Creation of two buildings with narrow side setback will have no adverse impact on the adjacent of neighboring properties.

3. The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variances are sought.

Strict application would require that the proposed building be moved to the west. That movement would reduce parking/ access road area creating an overcrowded and potentially unsafe traffic conditions.

The intended occupant of Lot 5 insists on owning its building as a free-standing structure. This variance is the only way to accommodate both structures without having to reduce the size and marketability of the Lot 3 building or reduce needed parking and access road areas.

Staff Recommendations

Staff recommends that the Board of Zoning Appeals **approve** the variance to reduce the 10-foot rear setback requirement to allow a zero lot side yard.